

## **Chapter 5**

### **OCCUPANCY STANDARDS AND UNIT OFFERS**

#### **INTRODUCTION**

The GBHA must establish policies governing occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit size and making unit offers. The GBHA's waiting lists and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of the ACOP comprise the GBHA's Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized into two parts:

Part I: Occupancy Standards. This part contains the GBHA's standards for determining the appropriate unit size for families of different sizes, compositions, and types.

Part II: Unit Offers. This part contains the GBHA's policies for making unit offers, and describes actions to be taken when unit offers are refused.

#### **PART I: OCCUPANCY STANDARDS**

##### **5-I.A. OVERVIEW**

Occupancy standards are established by the GBHA to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from underutilization or from excessive wear and tear due to overcrowding. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors the GBHA will use to determine the size unit for which a family qualifies, and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standard may be approved.

##### **5-I.B. DETERMINING UNIT SIZE**

In selecting a family to occupy a particular unit, the GBHA may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 960.206(c)].

HUD does not specify the number of persons who may live in public housing units of various sizes. The GBHA is permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children [PH Occ GB, p.62].

Although the GBHA does determine the size of unit the family qualifies for under the occupancy standards, the GBHA does not determine who shares a bedroom/sleeping room.

The GBHA's occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.

##### GBHA Policy

The GBHA will use the same occupancy standards for each of its developments.

The GBHA's occupancy standards are as follows:

The GBHA will assign one bedroom for each two persons within the household, except in the following circumstances:

- Persons of the opposite sex (other than spouses and children under age 7) will not be required to share a bedroom
- Persons of different generations will not be required to share a bedroom
- Live-in aides will be allocated a separate bedroom
- Single person families will be allocated a zero bedroom unit
- Foster children will be included in determining unit size only if they will be in the household for more than 6 months

The GBHA will reference the following standards in determining the appropriate unit bedroom size for a family:

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8

In determining bedroom size, the GBHA will include the presence of children to be born, children who are in the process of being adopted, children whose custody is being obtained, children who are temporarily away at school, or children who are temporarily in foster care.

## **5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS**

### **Types of Exceptions**

#### GBHA Policy

The GBHA will consider granting exceptions to the occupancy standards at the family's request if the GBHA determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances.

For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities. An exception may also be granted for a smaller bedroom size in cases where the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides (according to the chart in Section 5-I.B.) and the family does not want to transfer to a larger size unit.

When evaluating exception requests, the GBHA will consider the size and configuration of the unit. In no case will the GBHA grant an exception that is in violation of local housing or occupancy codes, regulations or laws.

Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to

local code, and the family agrees not to request a transfer for a period of two years from the date of admission, unless they have a subsequent change in family size or composition.

To prevent vacancies, the GBHA may provide an applicant family with a larger unit that the occupancy standards permit. However, in these cases the family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is an appropriate size unit available for the family to transfer to.

## **Processing of Exceptions**

### **GBHA Policy**

All requests for exceptions to the occupancy standards must be submitted in writing.

In the case of a request for exception as a reasonable accommodation, the GBHA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the GBHA will consider the exception request any time the resident indicates that an accommodation is needed, whether or not a formal written request is submitted.

Requests for a larger size unit must explain the need or justification for the larger size unit, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source, unless the disability and the disability-related request for accommodation is readily apparent or otherwise known.

The GBHA will notify the family of its decision within 10 business days of receiving the family's request.

## **PART II: UNIT OFFERS [24 CFR 1.4(b)(2)(ii); 24 CFR 960.208]**

### **5-II.A. OVERVIEW**

The GBHA must assign eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination laws.

In filling an actual or expected vacancy, the GBHA must offer the dwelling unit to an applicant the appropriate offer sequence. The GBHA will offer the unit until it is accepted. This section describes the GBHA's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list. This section also describes the GBHA's policies for offering units with accessibility features.

### **GBHA Policy**

The GBHA will maintain a record of units offered, including location, date, and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

### **5-II.B. NUMBER OF OFFERS**

### **GBHA Policy**

The GBHA has adopted a "two-to-three offer plan" for offering units to applicants. Under this plan, the GBHA will determine how many locations within its jurisdiction have available units of suitable size and type in the appropriate type of project. The number of unit offers will be based on the distribution of vacancies. If a suitable unit is available in:

Three (3) or more locations: The applicant will be offered a unit in the location with the highest number of vacancies. If the offer is rejected, the applicant will be offered a suitable unit in the location with the second highest number of vacancies. If that unit is rejected, a final offer will be made in the location with the third highest number of vacancies. The offers will be made in sequence and the applicant must refuse an offer before another is made.

Two (2) locations: The applicant will be offered a suitable unit in the location with the higher number of vacancies. If the offer is rejected, a final offer will be made at the other location. The offers will be made in sequence and the applicant must refuse the first offer before a second offer is made.

One (1) location: The applicant will be offered a suitable unit in that location. If the offer is rejected, the applicant will be offered the next suitable unit that becomes available, whether it is at the same location as the first offer or at another location. The second unit offer will be the final offer, unless there is good cause for refusing the offer.

If more than one unit of the appropriate type and size is available, the first unit to be offered will be the first unit that is ready for occupancy.

#### **5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL**

##### GBHA Policy

Applicants must accept or refuse a unit offer within 3 business days of the date of the unit offer.

#### **5-II.D. REFUSALS OF UNIT OFFERS**

An elderly or disabled family may decline an offer for designated housing. Such a refusal must not adversely affect the family's position on or placement on the public housing waiting list [24 CFR 945.303(d)].

##### GBHA Policy

Applicants may refuse to accept a unit offer for "good cause". Good cause includes situations in which an applicant family is willing to move but is unable to do so at the time of the unit offer, or the applicant family demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc. Examples of good cause for refusal of a unit offer include:

- The family demonstrates to the GBHA's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an education institution or job training program, or take a child out of day care or an educational program;
- The family demonstrates to the GBHA's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, sexual assault or stalking in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption;

- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members, or line-in aide necessary to the care of the principal household member;
- The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to the 30-day notice to move;
- The unit has lead-based paint and the family includes children under the age of six.

In the case of a unit refusal for good cause, the applicant family will not be removed from the waiting list as described previously. The applicant will remain at the top of the waiting list until the family receives an offer for which they do not have good cause to refuse.

The GBHA will require documentation of good cause for unit refusals.

### **Unit Refusal Without Good Cause**

#### GBHA Policy

When an applicant rejects the final unit offer without good cause, the GBHA will remove the applicant's name from the waiting list and send notice to the family of such removal. The notice will inform the family of their right to request an informal hearing and the process for doing so (see Chapter 14).

The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until the GBHA opens the waiting list.

### **5-II.E. ACCESSIBLE UNITS [24 CFR 8.27]**

The GBHA must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities, and take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of a particular unit.

When an accessible unit becomes vacant, before offering such units to a non-disabled applicant the GBHA must offer such units:

- First, to a current resident of another unit of the same development, or other public housing development under the GBHA's control, who has a disability that requires the special features of the vacant unit and is occupying a unit not having such features, or if no such occupancy exists, then
- Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

When offering an accessible unit to an applicant not having a disability requiring the accessibility features of the unit, the GBHA may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

#### GBHA Policy

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, the GBHA will offer the unit to a non-disabled applicant.

When offering an accessible unit to a non-disabled applicant, the GBHA will require the applicant to agree to move to an available non-accessible unit within 30 days when either a current resident or an applicant needs the features of the unit and there is another unit available for the non-disabled family. This requirement will be a provision of the lease agreement.

#### **5-II.F. DESIGNATED HOUSING**

##### GBHA Policy

The GBHA does not currently have a Designated Housing Plan.